IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

S.T.R. No. 111 of 2001
(old no. 1492/1992)

The Commissioner, Sales Tax
U.P., Lucknow. .....Applicant/revisionist

Versus

S/S Wild Life Institute of India
New Forest, Dehradun. ...Opposite Party/Respondent

Learned Standing Counsel for the revisionist.
Ms. Anjali Bhargava, learned standing counsel for the respondent.

Hon'ble Prafulla C. Pant, J.

Heard.

2. This revision, preferred under Section 11 (1) of the U.P. Sales Tax Act, 1948, is directed against the Judgment and order dated 25.04.1992, passed by the Sales Tax Tribunal, Dehradun.

3. The only question involved in this revision is whether cement supplied by the Government Department to its contractors for completion of its work, is sale for the purposes of U.P. Sales Tax Act, 1948.

4. This revision pertains to the assessment year 1988-89. The assessee in this case is a Government Institution. Facts of the case are that the wild life institute supplied cement to the contractor for the construction work assigned to him. The supply of cement by the Government Department to a contractor, for its own work, without payment of price of cement cannot be said to be sale for the purposes of Sales Tax Act, 1948, as it does not fulfill the definition of 'Sale', as contained

Under Section 2(h) of the said Act. In Northern India Caters Vs. Lt. Governor, Delhi, 1979, UPTC Pg. 826 and U.P. Awas Vikas Parishad, Bulandsahar Vs. Commissioner, Sales Tax, 1989 UPTC Pg. 1010, it has been clarified that supply of cement by the department to its contractor is not sale.

5. In view of aforesaid discussion, there is no error of law committed by learned Sales Tax Tribunal. As such, the revision is liable to be dismissed. And the same is dismissed at the admission stage.

(Prafulla C. Pant, J.)

Dt: 9th March, 2006